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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/590,203	06/08/2000	Louis Paul Herzberg	13668(YOR9-2000-0348US1)	9980
<div>7590      10/19/2007</div> <div>Richard L Catania Esq Scully Scott Murphy and Presser 400 Garden City Plaza Garden City, NY 11530</div> <div>EXAMINER SHANG, ANNAN Q</div> <div>ART UNIT      PAPER NUMBER</div> <div>2623</div> <div>MAIL DATE      DELIVERY MODE</div> <div>10/19/2007      PAPER</div>				

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/590,203

Applicant(s)

HERZBERG ET AL.

Examiner

Annan Q. Shang

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-7 and 9-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-7 and 9-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 08/03/07 have been fully considered but they are not persuasive.

With respect to claims 1, 2, 4-7 and 9-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Ballhorn (6,598,230)** in view of **Richardson (6,054,987)** and further in view of **Walker et al (6,131,086)** and claims 35 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Ballhorn (6,598,230)** in view of **Richardson (6,054,987)** and **Walker et al (6,131,086)**, further in view of **Peters et al (6,374,336)**, applicant discusses the claimed invention, the individual prior arts of records and further argues that the prior arts of records do not teach the claim limitations (see page 15+ of Applicant Remarks).

In response, Examiner disagrees. Examiner notes applicant's arguments, However, **Ballhorn** discloses a method of providing multilevel information about video-on-demand (VOD) services to customer video monitor, on-demand for viewing or playing of the video data (col.4, lines 33-65 and line 65-col.5, line 51). Ballhorn discloses managing image, video and audio data on-demand, providing a list or menu to individual Multimedia Boxes to enable a user to interact to request for multimedia on-demand, but silent how the listing or menu is generated and display to the user, such as "...generating a display, on a computer display screen, of a tree having a plurality of nodes, and embedding in the nodes information about the VOD services provided to the multitude of customers, including the step of the system administrator interacting with

the nodes of the display to configure and to monitor the connections between the servers and the customer video monitors.” However, this deficiency is disclosed in **Richardson** as illustrated in figures 4-6 and col.4, line 44-col.5, line 52 where a display unit generates a display of a tree having a plurality of nodes, and embeds in the nodes information about services provided to the multitude of customers, which further includes a system administrator interacting with the nodes of the display to configure and to monitor the connections between the servers and the customer video monitor, etc. Ballhorn as modified by Richardson, fail to explicitly teach a system administrator interacting with the nodes of the display to select one of the servers to provide the requested video program to the customer and assigns to the customer one or more multitude of channels to configure a video path between the selected one of the servers and the customers for transmitting the requested video program from the selected one of the servers to the video monitor of the one of the customers for viewing by the customers. However, this deficiency is disclosed in **Walker**, as illustrated in figures 1, 5-11, col.3, line 6-col.4, line 21, lines 38-50, col.5, line 10-col.6, line 22 and col.7, line 30-col.8, line 39. Hence the 103(a) rejection is proper, meets all the claim limitations.

Furthermore, Examiner maintains that, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. In this case all the prior arts are in the same field of endeavor as such combining the teaching of **Ballhorn**

in view of **Richardson** and further in view of **Walker** would be within the knowledge of one of ordinary skill in the art.

In addition, it appears Applicant's arguments are directed against the references individually, and one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. **See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).**

In view of the above, the 103(a) combination of **Ballhorn** in view of **Richardson** and further in view of **Walker** is proper, meets all the claim limitations, maintained as repeated below. **This Office Action is made FINAL.**

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 1, 2, 4-7 and 9-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Ballhorn (6,598,230)** in view of **Richardson (6,054,987)** and further in view of **Walker et al (6,131,086)**

As to claim 1, note the **Ballhorn** reference figures 1-3, discloses multimedia box network and further discloses a method of providing multilevel information about video-on-demand (VOD) services, comprising the steps of:

Providing a video-on-demand service system, the system including a multitude of servers (Video and Music 10, 40, etc., see figs.1-3) for storing video data, a multitude of customers (Multimedia Boxes 'MB' 20) for receiving the video data and viewing the video data on customer video monitors (col.4, lines 33-65), and a system administrator (Information Server 'IS' 12/Management PC 30) for configuring and monitoring connections between the servers and the customers, where customers are able to choose interactively various programs from a video-on-demand (VOD) service provider and can view the selected programs at any time on the customer video monitors (col.4, lines 33-65 and line 65-col.5, line 51);

Ballhorn, teaches generating a display that enables MB-20 to select music/video on demand (col.5, line 51-col.6, line 1+), but fails to explicitly teach generating a display, on a computer display screen, of a tree having a plurality of nodes, and embedding in the nodes information about the VOD services provided to the multitude of customers, including the step of the system administrator interacting with the nodes of the display to configure and to monitor the connections between the servers and the customer video monitors.

However, note the **Richardson** reference figures 4-6, discloses method of dynamically creating nodal views of a managed network, which generates a display, on a computer display screen, of a tree having a plurality of nodes, and embedding in the nodes information about services provided to the multitude of customers, including the step of the system administrator interacting with the nodes of the display to configure and to monitor the connections between the servers and the customer video monitor,

embedding information in nodes, including identifying a first and second catalog of a first and second group of aspects of services, forming a matrix from the first and second groups and embedding detailed information of each program under a specific categories a more detailed information embedded in the form of a matrix or matrices, which can be accessed by pressing a user input device (figs.4-6 and col.4, line 44-col.5, line 52).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Richardson into the system of Ballhorn to enable system administrator and the various management centers to monitor and manage services being provided to all the network devices and furthermore for easy troubleshooting of problems on the network devices or to plan future expansion of the network devices.

Ballhorn as modified by Richardson, fail to explicitly teach where upon receiving a customer request, the system administrator interacts with the nodes of the display to select one of the servers to provide the requested video program to the customer and assigns to the customer one or more multitude of channels to configure a video path between the selected one of the servers and the customers for transmitting the requested video program from the selected one of the servers to the video monitor of the one of the customers for viewing by the customers.

However, note the **Walker** reference figures 1 and 5-11, discloses method and system for allowing viewers to purchase program products or services, where a system administrator or live Operator(s) 140 interacts with the nodes of the display to select one of the servers, Venders or broadcast station (CBS, NBC, TNT, FOX, ABC, etc.,) to

provide the requested program, services or products to the customer and assigns to the customer one or more multitude of channels, configure a path between the selected one of the servers and the customer for transmitting the requested video program from the selected one of the servers to the video monitor of the one of the customers for viewing by the customers (col.3, line 6-col.4, line 21, lines 38-50, col.5, line 10-col.6, line 22 and col.7, line 30-col.8, line 39).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Walker into the system of Ballhorn as modified by Richardson to allow a system administrator or live operators to respond to customer request and route the requested services or product information to the appropriate server(s) or channel(s), to enable the customers to receive the requested services via the appropriate path(s) or channel(s).

As to claim 6, the claimed system is composed of the same structural elements that were discussed in the rejections of claim 1.

Claims 7, 9 and 10, are met as previously discussed with respect to claims 2, 4 and 5.

As to claim 11, the claimed storage device is composed of the same structural elements that were discussed in the rejections of claim 1.

Claims 12, 14 and 15, are met as previously discussed with respect to claims 2, 4 and 5.

Claim 13 is met as previously discussed with respect to claim 3.



As to claim 16, Ballhorn further discloses where the tree is displayed top down (col. 12, lines 41-55), note that the root of the tree is Category 92, which is at the top and the listings of programs follows.

Claim 17 is met as previously discussed with respect to claim 1.

As to claims 18-22, the claimed "method for representing interconnection of a plurality of elements of video-on-demand (VOD) system" is composed of the same structural elements that were discussed in the rejections of claim 1.

As to claim 23, Ballhorn further further employs a wizard within the software program of the STB to form a subset of elements within the Category (col.12, line 66-col. 13, line 22).

As to claim 24, the claimed article of manufacture is composed of the same structural elements that were discussed in the rejections of claim 18.

As to claim 25, the claimed architecture is composed of the same structural elements that were discussed in the rejections of claim 18.

As to claims 26 and 27, Ballhorn further further discloses where at least one VOD element is a catalog or category of VOD sub-elements and also peripherally related to VOD (col. 12, lines 31-51).

As to claim 28, Ballhorn further further discloses where the category elements only related to VOD includes an item from group including customer credit card (col. 14, lines 15-33), note that the user can order a program and furthermore an related or available information request by the user relating to VOD program is also displayed.

As to claim 29, the claimed method is composed of the same structural elements that were discussed in the rejections of claim 1.

As to claim 30, Ballhorn further further discloses VOD related entities such as VOD composers/manufacturers (col.5, lines 10-51).

Claim 31, is met as previously discussed with respect to claim 30.

As to claims 32 and 33, Ballhorn further further discloses were the VOD resources are groups of products and inventory information (col.5, lines 10-51).

Claim 34 is met as previously discussed with respect to claim 1.

4. Claims 35 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Ballhorn (6,598,230)** in view of **Richardson (6,054,987)** and **Walker et al (6,131,086)**, further in view of **Peters et al (6,374,336)**.

As to claims 35 and 36, Ballhorn as modified by Richardson and Walker further teaches an intersection matrix representing various categories, but fails to explicitly teach different servers for each category.

However, note the **Peters** reference figures 1 and 5-7, discloses a computer system and process for transferring multiple streams of data stored on multiple storage units and further discloses a catalog manager, which stores on different storage unit different catalogs and transfers multiple steams of the catalogs accordingly (col.6, line 51-col.7, line 13, col.8, line 19-57 and col.11, line 56-col.12, line 1+).

Therefore it would have been obvious to one of ordinary skill in the art the time of the invention to incorporate the teaching of Peters into the system of Ballhorn as

modified by Richardson and Walker to provide a plurality of storage for different catalogs to allow the distributor to access the storage with the shortest queue of requests and efficiently stream multiple or different catalogs simultaneously.

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

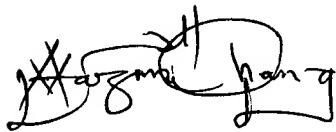
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Annan Q. Shang** whose **telephone number is 571-272-7355**. The examiner can normally be reached on **700am-400pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Christopher S. Kelley** can be reached on **571-272-7331**. The fax phone

number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the **Electronic Business Center (EBC) at 866-217-9197 (toll-free)**. If you would like assistance from a **USPTO Customer Service Representative** or access to the automated information system, call **800-786-9199 (IN USA OR CANADA) or 571-272-1000**.

A handwritten signature in black ink, appearing to read 'Annan Q. Shang', with a stylized, cursive script.

**Annan Q. Shang**